

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 485

Introduced by Senator Hernandez

February 17, 2011

An act to ~~add Section 14134.7 to the Welfare and Institutions Code, amend Sections 130302, 130305, 130307, 130316, and 130317 of, and to repeal Sections 130304 and 130309 of, the Health and Safety Code, relating to health facilities~~ *health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as amended, Hernandez. ~~Health facilities: emergency units. Health Insurance Portability and Accountability Act: implementation.~~

Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, provides for the Office of HIPAA Implementation in the California Health and Human Services Agency to assume statewide leadership and perform related activities for the implementation of the federal Health Insurance Portability and Accountability Act (HIPAA). Under existing law, the director of the office is required to establish an advisory committee to obtain information on statewide activities to implement HIPAA that is required to meet, at a minimum, twice each year. Existing law required that, during 2002, state entities subject to HIPAA assess its impact on their operations and that the office report that information to the Legislature. Under existing law, the Health Insurance Portability and Accountability Implementation Act of 2001 will be repealed on January 1, 2013.

This bill would extend the operation of the Health Insurance Portability and Accountability Implementation Act of 2001 to January 1, 2014, and would transfer responsibility for the statewide implementation of HIPAA to the Office of Health Information Integrity in the California Health and Human Services Agency. The bill would delete the requirement of 2 annual meetings for the advisory committee, providing for meetings as required for coordination purposes. The bill would also delete the assessment and reporting requirements for state entities and the office, which were required to be completed in 2002.

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care services. Existing law provides for the licensure of health facilities, including general acute care hospitals.~~

~~This bill would require the department to establish a pilot program to facilitate collaboration between an available and accessible provider of nonemergency medical care and a general acute care hospital to provide a Medi-Cal beneficiary or patient who lacks health insurance with an alternative to the use of the emergency unit of a general acute care hospital for care and services if the Medi-Cal beneficiary or patient, after a medical screening, is determined by a physician and surgeon or other health care provider, as specified, to not have an emergency medical condition and the Medi-Cal beneficiary or patient is provided the specified information, in writing, before discharge from the emergency unit.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 130302 of the Health and Safety Code is
- 2 amended to read:
- 3 130302. For the purposes of this division, the following
- 4 definitions apply:
- 5 (a) "Director" means the Director of the Office of ~~HIPAA~~
- 6 ~~Implementation~~ Health Information Integrity.
- 7 (b) "HIPAA" means the federal Health Insurance Portability
- 8 and Accountability Act.
- 9 (c) "Office" means the Office of ~~HIPAA Implementation~~ Health
- 10 Information Integrity established by the office of the Governor in

1 the *California* Health and Human Services Agency pursuant to
2 Section 130200.

3 (d) “State entities” means all state departments, boards,
4 commissions, programs, and other organizational units of the
5 executive branch of state government.

6 SEC. 2. Section 130304 of the *Health and Safety Code* is
7 repealed.

8 ~~130304. The office shall be under the supervision and control~~
9 ~~of a director, known as the Director of the Office of HIPAA~~
10 ~~Implementation, who shall be appointed by, and serve at the~~
11 ~~pleasure of, the Secretary of the Health and Human Services~~
12 ~~Agency.~~

13 SEC. 3. Section 130305 of the *Health and Safety Code* is
14 amended to read:

15 130305. ~~The~~For purposes of implementing this division, the
16 office shall be staffed, at a minimum, with the following personnel:

17 (a) Legal counsel to perform activities that may include, but are
18 not limited to, determining the application of federal law pertaining
19 to HIPAA.

20 (b) Staff with expertise in the rules promulgated by HIPAA.

21 (c) Staff to oversee the development of training curricula and
22 tools and to modify the curricula and tools as required by the state’s
23 ongoing HIPAA compliance effort.

24 (d) Information technology staff.

25 (e) Staff, as necessary, to coordinate and monitor the progress
26 made by all state entities in HIPAA implementation.

27 (f) Administrative staff, as necessary.

28 SEC. 4. Section 130307 of the *Health and Safety Code* is
29 amended to read:

30 130307. The director shall establish an advisory committee to
31 obtain information on statewide HIPAA implementation activities;
32 ~~which shall meet at a minimum of two times per year. activities.~~
33 *The committee shall meet as required to coordinate statewide*
34 *HIPAA implementation activities with other health care*
35 *stakeholders.* It is the intent of the Legislature that the committee’s
36 membership include representatives from county government,
37 from consumers, and from a broad range of provider groups, such
38 as physicians and surgeons, clinics, hospitals, pharmaceutical
39 companies, health care service plans, disability insurers, long-term
40 care facilities, facilities for the developmentally disabled, and

1 mental health providers. The director shall invite key stakeholders
2 from the federal government, the Judicial Council, health care
3 advocates, nonprofit health care organizations, public health
4 systems, and the private sector to provide information to the
5 committee.

6 *SEC. 5. Section 130309 of the Health and Safety Code is*
7 *repealed.*

8 ~~130309. (a) All state entities subject to HIPAA shall complete~~
9 ~~an assessment, in a form specified by the office, prior to January~~
10 ~~1, 2002, to determine the impact of HIPAA on their operations.~~
11 ~~The office shall report the statewide results of the assessment to~~
12 ~~the appropriate policy and fiscal committees of the Legislature on~~
13 ~~or before May 15, 2002.~~

14 ~~(b) Other state entities shall cooperate with the office to~~
15 ~~determine whether they are subject to HIPAA, including, but not~~
16 ~~limited to, providing a completed assessment as prescribed by the~~
17 ~~office.~~

18 *SEC. 6. Section 130316 of the Health and Safety Code is*
19 *amended to read:*

20 130316. Any funds appropriated for the purpose of this division
21 that remain unexpended or unencumbered on January 1, 2013,
22 2014, shall revert to the General Fund on that date unless a statute
23 that is enacted before January 1, 2013, 2014, extends the provisions
24 of this division.

25 *SEC. 7. Section 130317 of the Health and Safety Code is*
26 *amended to read:*

27 130317. This division shall become inoperative on January 1,
28 2013, 2014, and as of that date is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2013, 2014, deletes or
30 extends the dates on which it becomes inoperative and is repealed.

31 ~~SECTION 1. Section 14134.7 is added to the Welfare and~~
32 ~~Institutions Code, to read:~~

33 ~~14134.7. (a) The department shall establish a pilot program~~
34 ~~to facilitate collaboration between an available and accessible~~
35 ~~provider of nonemergency medical care and a general acute care~~
36 ~~hospital, within two geographic locations, to provide a Medi-Cal~~
37 ~~beneficiary, a patient who lacks health insurance, or both, with an~~
38 ~~alternative to the use of the emergency unit of a general acute care~~
39 ~~hospital for care and services if the Medi-Cal beneficiary or patient~~
40 ~~who lacks health insurance, after a medical screening, is determined~~

1 by a physician and surgeon or other health care provider who acts
2 within his or her scope of practice to not have an emergency
3 medical condition and the Medi-Cal beneficiary or patient who
4 lacks health insurance is provided the following information, in
5 writing, before the patient is discharged from the emergency unit:

6 (1) The name and address of an available and accessible provider
7 of nonemergency medical care.

8 (2) A referral from the general acute care hospital if necessary
9 to coordinate the scheduling of treatment.

10 (b) The department shall submit any necessary application to
11 the federal Centers for Medicare and Medicaid Services for a
12 waiver to implement the pilot project described in this section.
13 The department shall determine the form of waiver most
14 appropriate to achieve the purposes of this section. The waiver
15 request shall be included in any waiver application submitted
16 within 12 months after the effective date of this section, or shall
17 be submitted as an independent application within that time period.
18 After federal approval is secured, the department shall implement
19 the waiver within 12 months of the date of approval.

20 (c) The department shall develop a request for proposal process
21 for available and accessible providers of nonemergency medical
22 care and general acute care hospitals that want to participate in the
23 pilot project. The department also shall develop a timeline and
24 process for monitoring and evaluating the pilot project and provide
25 this timeline and process to the appropriate fiscal and policy
26 committees of the Legislature.

27 (d) For purposes of this section, “an available and accessible
28 provider of nonemergency medical care” includes the office of a
29 physician and surgeon, health clinic, community health center,
30 and hospital outpatient department, provided that the provider of
31 nonemergency medical care is able to diagnose or treat
32 contemporaneously within the same amount of time that a
33 physician within the emergency unit of a general acute care hospital
34 would have taken to provide the same nonemergency services.